

NOV 17 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,656	12/12/2001	Gary Carlton Johnson		4604

7390

10/24/2005

Gary C Johnson  
2064 Lafayette  
Detroit, MI 48207

EXAMINER

WRIGHT, DIRK

ART UNIT

PAPER NUMBER

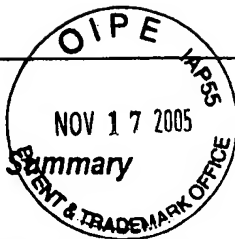
3681

DATE MAILED: 10/24/2005

10-24-05

Please find below and/or attached an Office communication concerning this application or proceeding.

OA-5



# Office Action Summary

Application No.

10/021,656

Applicant(s)

JOHNSON, GARY CARLTON

Examiner

Dirk Wright

Art Unit

3681

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

ch

*Response to Amendment*

The amendment filed May 23, 2005 continues to be objected under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The "Detailed Description of the Invention" filed May 23, 2005, intended by applicant to replace his original "Detailed Description of the Drawings", contains new matter. The subject matter not supported by the original application, and not inherent in the original drawings, claims or description, includes the following:

Page 1, lines 7 and 8: "(4) anti roll-back means of the drive wheels/axle sections on an inclined drive surface"

Page 1, line 14: "by way of the outwardly protruding axial stock of case (8)"

Page 3, lines 9-10: "The axle section of axle 10; being/beginning at 0 rpm."

Page 3, lines 11-12: "The said new differential is designed to automatically go into a gear-locking effect/mode. The above said axle section, of axle 10; being/beginning at 0 rpm."

Page 4, lines 2-3: "Herein the axle section of axle 5; being/beginning at 0 rpm."

Page 4, lines 4-6: "In the above said circumstance, the said; new differential is designed to automatically go into a gear-locking effect/mode. Whereas gear 6, of axle 5, is also at 0 rpm."

Page 4, line 8: "Whereas gear 12, of axle 5, is also at 0 rpm;"

Page 4 line 11: "Hereby causing the afore said; gear-locking effect/mode."

Art Unit: 3681

Page 4, lines 14-16: "(d) wherein traction is lost by one of either axle section; on an inclined drive surface. Herein a situation called; "vehicle roll-back" will occur. The aforementioned gear-locking effects/modes;"

None of these features were present in the originally filed application, and are not inherent from the original claims, specification or drawing.

In the claims, the following is deemed to be new matter:

In claim 15: "a means of only allowing/forcing both drive axles/wheels to rotate in unison;" , "...disallows the over-spinning of the both drive wheels..." , "the said differential also having inherent Posi-Traction and an inherent anti roll-back features for the vehicle when in a racing/climbing mode;" , "...because of the roll-over tendencies of these said vehicles;" , "a smooth rounded inner surface throughout it's central stock;" . None of these claimed features are supported by, or inherent from, the original specification, claims or drawing.

The proposed replacement drawings were received on November 12, 2004. These drawings are unacceptable and will not be entered because they contain new matter. The new matter includes the added support stock (not labeled) protruding from axial sides of the differential case (8).

Applicant is required to cancel the new matter in the reply to this Office Action.

***Specification Objected***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claim 15: "a differential drive case", "a first and second planetary differential gear", "a support structure/drive case", "two sun gears", "at least one planet wheel",

Art Unit: 3681

"one input shaft", "two output shafts", "freely rotatable bevel pinion", and "differential side bevel gears". None of these phrases are found in the original specification, claims or drawing.

*Claims Rejected*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 15: "a means of only allowing/forcing both drive axles/wheels to rotate in unison;" , "...disallows the over-spinning of the both drive wheels..." , "the said differential also having inherent Posi-Traction and an inherent anti roll-back features for the vehicle when in a racing/climbing mode," , "...because of the roll-over tendencies of these said vehicles," , "a smooth rounded inner surface throughout it's central stock;" . None of these claimed features are supported by, or inherent from, the original specification, claims or drawing and therefore it appears that applicant did not possess these claimed features at the time this application was filed.



*Response to Arguments*

Applicant's arguments filed July 21, 2005 and August 15, 2005 have been fully considered but they are not persuasive. Since Applicant's "Detailed Description of the Invention" filed May 23, 2005, intended by applicant to replace his original "Detailed

0A-5

Art Unit: 3681

Description of the Drawings", was not entered because it contains new matter, the application has been examined on the merits based upon the original disclosure. Applicant has deleted all previous amendments to the specification in his remarks filed May 23, 2005. The application therefore stands as originally filed.

Applicant appears to assert that the subject matter he has added to the claims, the written description and the drawing are inherent from the original disclosure. This is not found persuasive because one of ordinary skill would not know that the disclosed device would have an anti roll-back feature, have a function where an axle was rotated at 0 rpm, have a means of forcing the drive axles to rotate in unison, or have a gear-locking effect/mode. The original disclosure also did not state that the input shaft 19 had "a smooth rounded inner surface throughout it's central stock" and such is not clear from the drawing. The addition of "the outwardly protruding axial stock of case (8)" is a new feature added to the drawing and description and would also not have been inherent from the original disclosure. The subject matter added by applicant is not a mere re-phrasing of existing language, nor is it an inherent function, theory or advantage of the existing disclosure, they are in whole completely new and therefore new subject matter.

#### *Conclusion*

The compilation of patent drawing pages filed July 21, 2005, has been treated as an Information Disclosure Statement, and the patents have been listed on the enclosed form 892. None of the references cited show all of the features of the claimed invention.

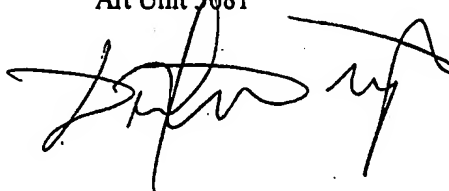
0A-5

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dirk Wright whose telephone number is 571-272-7098. The examiner can normally be reached on Monday through Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dirk Wright  
Primary Examiner  
Art Unit 3681



DW  
Wednesday, October 19, 2005